

ILLINOIS POLLUTION CONTROL BOARD

May 6, 2013

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
VAPOR RECOVERY RULES:) R13-18
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking - Air)
PARTS 201, 218, and 219)

HEARING OFFICER ORDER

On March 18, 2013, the Illinois Environmental Protection Agency (IEPA) filed a rulemaking proposal to amend the Board's air pollution rules at 35 Ill. Adm. Code 201, 218, and 219. The proposal includes the phase out of Stage II vapor recovery systems at gasoline dispensing operations in the Chicago ozone nonattainment area. On April 4, 2013, the Board issued an opinion and order which, among other things, accepted IEPA's proposal for hearing and, without commenting on the proposal's merits, adopted the proposed amendments for first-notice publication in the *Illinois Register* (5 ILCS 100/5-40 (2010)).

The first of two scheduled hearings will be held in Springfield, beginning at 11:00 a.m. on May 8, 2013. The deadline to pre-file testimony for the hearing was April 24, 2013. Only IEPA pre-filed testimony. Attached to this order are Board staff questions for the witnesses of IEPA. These questions will be taken up at the first hearing. IEPA is not required to present written responses to the attached questions before or at hearing. The hearing officer will, of course, provide opportunities for other participants attending the hearing to pose questions to IEPA.

IT IS SO ORDERED.



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ATTACHMENT TO HEARING OFFICER ORDER

May 6, 2013

Board Staff Questions for First Hearing

Docket R13-18, *Vapor Recovery Rules: Amendments to
35 Ill. Adm. Code Parts 201, 218, and 219*

Part 201

1. At pages two and three of Mr. Cooper's pre-filed testimony, Mr. Cooper explains the need for the proposed amendments to Section 201.146(n)(1) ("any amount of material or mixture of any material listed as a hazardous air pollutant pursuant to section 112(b) of the Clean Air Act"). Are like amendments ("amount" and "mixture") needed in Sections 201.210(a)(10)(A) and 201.210(b)(14), which also refer to any material listed as a hazardous air pollutant pursuant to section 112(b) of the Clean Air Act?
2. In IEPA's view, is an underground storage tank (UST) considered "not used to store" or "not used for the storage of" gasoline (Sections 201.146(n)(1) and 201.210(a)(1), respectively) if the UST is put into "temporary closure" pursuant to 41 Ill. Adm. Code 175? Under the temporary closure regulations of the Office of the State Fire Marshal (OSFM), a UST is considered "empty" when "all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system." 41 Ill. Adm. Code 175.810(a)(1) (based on 40 C.F.R. § 280.70(a)).
3. Proposed Section 201.210(a)(10)(B) states in part: "gasoline, including gasoline/ethanol blend fuels." This "including" language is repeated at proposed Sections 201.210(a)(19)(A) and (b)(4). The term "gasoline" is used in Section 201.210(a)(10)(A), however, without this "including" language. Should "including gasoline/ethanol blend fuels" be added to Section 201.210(a)(10)(A)?
4. Proposed Section 201.210(a)(19)(B) states: "Distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends." This "including" language is repeated at proposed Section 201.210(b)(4). Please clarify which listed fuels are intended to fall within the word "including," *i.e.*, does "distillate oil" include kerosene and diesel fuel, but not biodiesel or biodiesel/distillate oil blends? Also, the term "distillate oil" is used in Sections 201.146(n)(3) and 201.210(a)(11), but without this "including" language. Should the "including" language be added to Sections 201.146(n)(3) and 201.210(a)(11)?
5. IEPA proposed amending Section 201.210(b)(4) as follows: "General vehicle maintenance and servicing activities at the source, other than gasoline, including gasoline/ethanol blend fuels, distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends fuel handling and dispensing." Is it IEPA's intent that all of these listed fuels, beginning with "gasoline," modify the words "fuel handling and dispensing"?

6. Please provide some examples of how the “rolling 12 month total” would be calculated for purposes of determining the “annual average throughput” in proposed Section 201.210(a)(19)(A).

Part 218

1. Why are the proposed amendments to Section 218.586(b) (“[c]ompliance shall be required and demonstrated”) and Section 218.586(d) (“shall comply and demonstrate compliance”) necessary?
2. If the amendments in item 1 are necessary, are like amendments needed in other Part 218 provisions (not open in this rulemaking) that refer to demonstrating compliance (*e.g.*, Sections 218.187(c), 218.204(a)(2)(B)(ii))?
3. In Sections 218.586(d)(1) and (g)(4), should language be added so as to further identify what is being decommissioned, *i.e.*, “decommissioning of the vapor collection and control system”?
4. Must the “records relating to decommissioning” (Section 218.586(g)(4)) be maintained at the site of the gasoline dispensing operation? If so, how must the record be maintained if the site closes? Does Section 218.586(g)(4) correctly read 30 “minutes”?
5. Does IEPA have a sample 10-day “notice of intent” form referred to in proposed Section 218.586(i)(2)(A)? If so, please provide a copy for the record. Will the form be available on IEPA’s website after these rules are adopted?
6. In Section 218.586(i)(2)(B), is Section 14.6.14 of the Petroleum Equipment Institute (PEI) Recommended Practices (PEI/RP300-09) excluded from applicability because IEPA will be providing the decommissioning checklist and certification pursuant to Section 218.586(i)(2)(C)? Does IEPA have a sample checklist and certification? If so, please provide a copy for the record. Will the form be available on IEPA’s website after these rules are adopted? How would IEPA’s form differ from Appendix C of PEI/RP300-09?
7. In Sections 218.586(i)(2)(B)(i) and (ii), please explain what the two OSFM “licensure model[s]” are, as well as the Illinois Department of Agriculture’s “3-A Gasoline Pump Meters Code.”
8. In Section 218.586(i)(2)(B)(iii), please describe generally the “pressure decay test” and the “tie-tank test” and explain why the former must be “passed” while the latter must be “conducted and passed.”
9. Under Section 218.586(i)(2)(C), which “test results” should be submitted to IEPA?

10. At pages 14 to 15 of Mr. Burkhart's pre-filed testimony, there is this statement: "in the initial year, the savings could be \$1,000 or more after subtracting the costs to decommission." Does the "the initial year" refer to the first year after decommissioning is complete? Please explain how the "\$1,000 or more" in savings was arrived at by "subtracting the costs to decommission."
11. Please confirm that the numbers on the vertical axis of the figure attached as Exhibit 1 to Mr. Burkhart's pre-filed testimony correspond to total vehicle refueling emissions in tons per day of volatile organic compounds.
12. Section 5-75(a) of the Illinois Administrative Procedure Act on incorporations by reference states that "[t]he reference in the agency rules must fully identify the incorporated matter by *publisher address* and date in order to specify how a copy of the material may be obtained." 5 ILCS 100/5-75(a) (2010) (emphasis added). Please submit an amendment to proposed Section 218.112(ff) that identifies PEI's address for purposes of obtaining a copy of the Recommended Practices (PEI/RP300-09).

Part 219

1. Why does IEPA propose "reserving" subsection (e) of Section 219.583? *See also* proposed reservation of Section 218.583(e)?

Technical Support Document

1. On page 7 of the Technical Support Document (TSD), IEPA states that it used USEPA's "MOTOR Vehicle Emissions Simulator" (MOVES) model version 2010b to estimate refueling emissions from 2007 to 2020. Please submit USEPA's MOVES2010b User Guide for the record.
2. Please spell out the following acronyms appearing in the table entitled "Key Input Data for the MOVES Model" on page 7 of the TSD: HPMSV; VMT; IM; and OBD. Also, please explain what these terms mean in the context of MOVES model.
3. Please describe the function of the parameters in the model that are listed as key input data in the table on page 7 of the TSD.
4. Attachment B to the TSD contains the MOVES input and output files in "mySQL format" on a compact disc. To make this information more readily understandable, please provide, if feasible, a written summary of the input and output files (not simply pages of numbers) that would give ranges and averages for the key input data parameters listed on page 7 of the TSD, as well as output values other than those graphed in Figure 1 of the TSD.

5. Please provide numerical values for the points graphed in Figure 1 of the TSD. Also, please quantify the emission reduction benefits in terms of tons per day (tpd) of volatile organic compounds (VOC) for each year graphed beginning in 2014.
6. The TSD refers to the “January 2014 cross-over point.” TSD at 9. Please clarify whether the points graphed in Figure 1 correspond to January 1st of each year on the horizontal axis.
7. Please explain the trends in the Figure 1 graph as to what is occurring and why. For example:
 - a. Does the decrease in “Refueling Emissions (VOC in tons/day)” depicted by the “ORVR Only” curve represent an increasing number of vehicles equipped with ORVR accompanied by a gradual phase-out/scrapping of older model vehicles without ORVR?
 - b. Why does the ORVR + Stage II line show a very gradual decrease over time rather than an increase due to the incompatibility issue affecting more vehicles over time?
 - c. The TSD states that “[a]fter this [cross-over] point, the difference between the two lines represents the reduction in refueling emissions if Stage II is decommissioned. This difference is 0.7 tpd in 2014 if Stage II is decommissioned increasing to 2.54 tpd in 2020 when an estimated 96% of the vehicle fleet will be ORVR equipped.” TSD at 8. As the cross-over point appears to be in 2014, at which point the difference would be zero, when specifically is the 0.7 tpd difference expected?